

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/21/2010 has been entered.

Applicant's amendment of claims 1, 31, 39, 45, 50, 60 and 68, in the paper of 12/21/2010, is acknowledged. Claims 1, 12, 21-23, 31-34, 37-42, 44-48, 50-55, 58-65, 67-72 are still at issue and are present for examination.

Applicants' arguments filed on 12/21/2010 have been fully considered and are deemed to be persuasive to overcome some of the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 12, 21, 22, 31-34, 37-42, 44-48, 50-55, 58-65, 67-72 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in

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the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1, 31, 39, 45, 50, 60, 68, (claims 12, 21, 22, 32-34, 37-42, 44, 46-48, 51-55, 58, 59, 61-65, 67, 69-72 dependent on) are rejected under this statute on the basis that the newly entered recitation "...having no more than one conservative amino acid substitution" is not supported by applicants specification at the time of filing and is thus considered new matter. It is noted that previously applicants pointed to paragraphs [0018], [0040] and [0041] as supporting this amendment and in the paper of 11/19/2010, it was noted that support for this amendment was not found in the designated portion of applicant's specification. Applicants have not commented regarding the support for this amendment in response to the advisory of 11/19/2010.

Thus these claims remain rejected as encompassing new matter.

Applicant is referred to the revised guidelines concerning compliance with the written description requirement of U.S.C. 112, first paragraph, published in the Official Gazette and also available at [www.uspto.gov](http://www.uspto.gov).

The rejection of claims 1, 12, 21, 22, 31-34, 37-42, 44-48, 50-55, 58-65 and 67-72 are rejected under 35 U.S.C. 112, first paragraph, is withdrawn based upon applicants amendment and argument presented in the paper of 12/21/2010.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G. Hutson whose telephone number is 571-272-0930. The examiner can normally be reached on M-F, 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mondesi Robert can be reached on 571-272-0956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/3/2011

/Richard G Hutson/  
Primary Examiner, Art Unit 1652